

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF)
AMERICA)
VS.) CRIMINAL NO. 03-10377-WGY

ERIC LINO,)
Defendant.)

MOTION FOR SUGGESTED QUESTIONS TO THE JURY

The Defendant moves this Honorable Court to ask the following questions to each person called as a juror, either individually or collectively, in order to determine whether such person stands indifferent or is affected by any bias, prejudice or interest.

1. Do you know, or are you related, to any of the attorneys, the Defendant or any of the witnesses on the case?

2. Have you read about the facts of this case in the newspapers, or heard about it on the radio or television?

3. Do you have any interest in this case or its outcome?

11-10-04
Motion C.J.
Motion allowed in part
denied in part
by the Court &
Elie, Esq. - J.P.M.

4. Have you expressed or formed an opinion as to any issue or outcome of this case?
5. Are you aware of any bias or prejudice in regard to this case which might affect its outcome? By bias or prejudice, I mean, do you favor either side or oppose either side for any reason whatsoever?
6. Would you try this case solely on the basis of the evidence presented in the courtroom?
7. Under our system of law, a Defendant in a criminal case has a guaranteed right to be considered innocent until proven guilty beyond a reasonable doubt. Furthermore, it is the Government, which bears the burden of proving the defendant guilty beyond a reasonable doubt. Do you think that a defendant in a criminal trial should be made to prove his innocence?
8. The Defendant in a criminal case has an absolute right not to testify. Would you hold it against the defendant in any way if he did not testify in this case and tell his side of the story?
9. Do you further understand that a Defendant need not do anything, need not question witnesses, need not give an opening or closing argument, need not present any witnesses at all. Would you in any way whatsoever hold this against the defendant?

10. Have you or any member of your family, or any close acquaintance of yours, ever been the victim of a crime?

- a. If so, what crime?
- b. Would this in any way affect your ability to render a fair, impartial and just verdict?

11. Have you or any member of your family, or any close acquaintance of yours, ever worked for a law enforcement agency, such as the Falmouth Police Department, the Massachusetts State Police, the Barnstable County District Attorney's Office, the Attorney General's Office, The United States Attorney's Office, The "DEA", The "FBI" and so forth?

- a. If so, for whom did they work?

12. Would you believe the testimony of a police officer over the testimony of a civilian witness simply because of (*his/her*) position as a police officer?

13. The Defendant in this case is charged with a serious offense.

- a. Does this fact alone make you tend to think that the Defendant is guilty of something?
- b. Will the nature or seriousness of the charge make it difficult for you to render a fair and impartial verdict?
- c. Does the fact that he was arrested make you think that he is guilty of something?

14. The Defendant will acknowledge that he has sold drugs. In considering the evidence in this particular case, will you be able to put aside any prejudice you might have regarding drugs and drug dealing, and consider the evidence fairly, impartially, and on its own terms?

15. Will you be able to keep an open mind throughout the entire trial and not form any final opinion until all of the evidence is completely in and I have instructed you on the law?

16. Is there any reason why you cannot fairly and impartially reach a verdict in this case based solely on the evidence presented to you and accepting the law as I instruct you in regard to it?

17. Do you know of any reason why it would not be appropriate for you to be a juror in this case?

18. Do you understand that if you were called upon to vote guilty or not guilty at this time, that you would have to vote not guilty because of the presumption of innocence?

19. Do you understand that the comments of the attorneys in this case are not evidence which can be considered by you in deciding the guilt of the defendant?

20. Do you understand that you cannot consider the fact that objections were made to certain evidence as any indication that a person charged with a crime is guilty? Do you further understand that if a question is asked and objected to and I sustain the objection, that is I disallow the question, that you are not allowed to speculate as to what the answer might have been if answered?

21. Do you have any bias or prejudice against the Defendant at this time?

22. Would you feel that the Defendant's failure to testify was an indication of his guilt?

23. Do you understand that the verdict in this case has to be unanimous and it is not a situation wherein the majority wins?

24. Will you vote your own conscience even if you are in the minority?

25. If you came to the conclusion that the prosecution had not proven the guilt of the accused beyond a reasonable doubt, and you found that a majority of the jurors believed that the Defendant was guilty, would you change your vote only because you were in the minority?

26. Do you understand that the indictment is no evidence of guilt in this case and cannot be considered by you as evidence of guilt?

27. There are many people on this jury panel. Do you recognize other members of the panel as being a close friend or associate? If so, who? What is your relationship with that person?

28. Do you understand that a Defendant is not required to prove his innocence?

Respectfully submitted,
FOR THE DEFENDANT,



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Dated: 11/12/04